

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT


(PCT Article 36 and Rule 70)

Applicant's or agent's file reference C1378.01/M	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/02570	International filing date (day/month/year) 13.06.2003	Priority date (day/month/year) 27.06.2002
International Patent Classification (IPC) or both national classification and IPC G01N33/50		
Applicant MEDICAL RESEARCH COUNCIL et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.  
  
☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  
  
These annexes consist of a total of sheets.

## 3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand  22.11.2003	Date of completion of this report  17.08.2004
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  GONCALVES M L F C  Telephone No. +49 89 2399-8127



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International application No. **PCT/GB 03/02570**

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

1-15 as originally filed

**Claims, Numbers**

1-13 as originally filed

**Drawings, Figures**

1-7 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 12, 13

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the said claims Nos. 12, 13

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-11
Inventive step (IS)	Yes: Claims	
	No: Claims	1-11
Industrial applicability (IA)	Yes: Claims	1-11
	No: Claims	

2. Citations and explanations

**see separate sheet**

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**Section V**

1. The claims 12 and 13 relate to subject-matter in respect of which no international search report has been established and thus need not be subject of an international preliminary examination (Rule 66.1(e) PCT).

2. The following documents are mentioned in the search report:

D1: WO 02 095476

D2: SCIENCE, vol. 296, 19 April 2002, pages 541-545, (cited in the application)

D3: JOURNAL OF ANATOMY, vol. 202, no. 2, 1 February 2003, pages 175-181.

D4: FASEB JOURNAL, vol. 16, no. 5, 22 March 2002, page A1092.

D5: JOURNAL OF MEDICAL GENETICS, vol. 39, no. Supplement 1, September 2002, page s23.

D6: US-A-4 834 019

3. The subject-matter of claim 1 is an apparatus for treating tissue specimens by immersion in a liquid. Apparatus with all the features of the subject-matter of claim 1 are disclosed in the following prior art documents:

D2, from the inventor of the present application, discloses an apparatus for rotating the specimen, embedded in an agarose cylinder (see page 543, figure 1). Further data on the specimen staining and imaging is to be found at the materials and methods part of the Supplementary Material on this paper available online.

D6 also describes a tissue specimen treatment apparatus of the multi-chamber type having a plurality of containers, for instance arranged in a circle, and means for transporting a specimen for treatment to selected such chambers in a prescribed sequence, is characterized by a containment vessel disposed about at least the open tops of the containers and by cover means movable with the transporting means and enclosing the interior of the containment vessel so as to separate the specimen from the ambient atmosphere (see abstract, figures and claims).

From the above analysis of the known prior art, the subject-matter of claim 1 is not novel (Article 33 (2) PCT).

4. The additional features introduced by the dependent claims 2-8 cannot be combined with the features of claim 1 to form a basis for novel and inventive subject-matter, because the features introduced by these claims are either also anticipated by the

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prior art disclosures or relate to standard options in the art (Article 33 (2) and (3) PCT).

5. The above comment (see item 3) also applies to the subject-matter of claim 9, relating to a method of treating tissue specimens by immersion in a liquid chamber, and to the claims dependent thereon (Article 33 (2) PCT).